(43)

HIGH COURT OF CHHATTISGARH AT BILASPUR
Writ Petition (C) No. 7207 of 2007

PETITIONER : Aajuram Vanshe Son of Shri Dukaluram Vanshe, aged about 34 years, By Caste Satnami, Sarpanch, Gram Panchayat Kusmund, Block Arang, District Raipur (CG).

VERSUS

RESPONDENTS :
1. The Chhattisgarh State Election Commission, Raipur, through Its Secretary, Raipur (CG).
2. The District Election Officer (Panchayat Raipur, (CG)).
3. The Returning Officer (Panchayat Election), Arang, Raipur (Tahsildar) Arang, District Raipur (CG).
4. The Director Panchayat, Chhattisgarh, Raipur (CG).
5. The Additional Collector, Raipur, District Raipur (CG).
6. The Sub Divisional Officer (Revenue), Raipur, District Raipur (CG).
7. Harilal Sonkar son of Shri Sadaram Sonkar, Resident of village Kusmund, Block Arang, District Raipur (CG).

(WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA)

(SB: Hon'ble Mr. Satish K. Agnihotri, J.)

Present : Shri Pravin Kumar Tulsyan, Advocate for the petitioner.
Shri A.S. Kachhwaha, Government Advocate for the State.

ORAL ORDER
(Passed on this 05th of December, 2007)

1. Learned counsel appearing for the petitioner submits that during the period when he was working as Sarpanch of Gram Panchayat Kusmund, Block Arang, District Raipur, one Shri Harilal Sonkar made a complaint regarding irregularities in financial dealing, to the Sub Divisional Officer-cum-Prescribed authority, to cancel the election of the petitioner as Sarpanch, in exercise of power under Section 40 of the Chhattisgarh Panchayat Raj Adhiniyam, 1993. The Sub Divisional Officer allowed the application, filed by Shri Harilal Sonkar and removed the petitioner from the post of Sarpanch, on 16.07.2007 (Annexure-P/1).

2. Being aggrieved, the petitioner preferred an appeal before the Additional Collector, Raipur. The Additional Collector, Raipur, after hearing the parties, dismiss the appeal confirming the findings and the order passed by Sub Divisional Officer, on 05.10.2007 (Annexure P/2).
3. The petitioner, further being aggrieved, moved the Director, Panchayat in appeal No. 15/B-121/07-08. The Director, Panchayat, after hearing, granted stay of the order dated 05.10.2007, passed by the Additional Collector, Raipur, which confirmed the order passed by the Sub Divisional Officer. Thereafter, according to the petitioner, the petitioner resumed the office of Sarpanch and has been continuing as Sarpanch. During the period when the petitioner has been continuing as Sarpanch, the Election Commission has notified election for the post of Sarpanch, which is illegal.
4. Be that as it may, since the election schedule has already been notified, I do not think it appropriate to interfere with the election schedule. However, in view of the facts and circumstances as stated above, the petitioner is granted liberty to challenge the election on the ground stated above, after election is over.
5. In view of the subsequent development, i.e. after order dated 22.11.2007, passed by the Director, Panchayat, it is desirable that the Director, Panchayat should consider the disputes, as early as possible, preferably within a period of two weeks.
6. In view of the foregoing, the writ petition is disposed of with above directions. No order asto costs.

Sd/-
Satish K.Agnihotri
Judge

Sahu